

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - - X

UNITED STATES OF AMERICA, : 12-CR-00134

v. : U. S. Courthouse

ADNAN HAUSA, : Brooklyn, New York

Defendant. : April 8, 2016

: 10:45 o'clock a.m.

- - - - - X

TRANSCRIPT OF CONFERENCE  
BEFORE THE HONORABLE BRIAN M. COGAN  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For the Government:

ROBERT L. CAPERS  
United States Attorney  
By: SHREVE ARIAL  
MELODY WELLS  
MATTHEW JACOBS  
Assistant U. S. Attorneys  
225 Cadman Plaza East  
Brooklyn, New York 11201

For the Defendant:

SUSAN KELLMAN, ESQ.  
JOHN DRATEL, ESQ.  
DAVID STERN, ESQ.

Court Reporter:

Anthony M. Mancuso  
225 Cadman Plaza East  
Brooklyn, New York 11201  
(718) 613-2419

Proceedings recorded by mechanical stenography, transcript  
produced by CAT.

1 (Case called; both sides ready.)

2 MR. ARIAIL: Good morning, your Honor. Shreve  
3 Ariail for the United States, with Melody Wells and Matthew  
4 Jacobs.

5 MS. KELLMAN: Good morning, your Honor. Susan  
6 Kellman, with David Stern and John Dratel. We are ready to  
7 proceed.

8 THE COURT: Just for the record, I will note we got  
9 the a call from the marshals this morning that Mr. Hausa was  
10 again refusing to come to court and the marshals asked if I  
11 wanted a forced and consistent with our prior discussions I  
12 said no force order. I take it, therefore, that counsel is  
13 waiving his appearance?

14 MS. KELLMAN: Yes, your Honor.

15 THE COURT: All right. So, we have to set a  
16 schedule.

17 MR. ARIAIL: Yes, your Honor.

18 THE COURT: What's the bid and ask on the schedule?

19 MR. ARIAIL: I'm sorry.

20 THE COURT: What are the two sides' positions on the  
21 schedule?

22 MR. ARIAIL: We spoke to defense counsel in advance.  
23 They have indicated they needed some more time to review the  
24 materials we recently disclosed to them and they had proposed  
25 putting us out for about three or four weeks -- I think four

1 weeks from their perspective -- to come back in to set a  
2 scheduling order for the case. I checked with your clerk  
3 about availability for dates and it sounds like you're not  
4 around in three or four weeks and we I think at this point  
5 would be fine with a date in May as long as we have a date  
6 certain by which we could propose a scheduling order to the  
7 court to carry us through to the October trial date. We're  
8 just a little nervous at this point. As we've indicated  
9 before, there's a lot of stuff to do and we want to make sure  
10 it's on the calendar and set. I'm sure defense counsel has  
11 perspectives on that. That's where we are.

12 THE COURT: Before I hear from defense counsel, let  
13 me ask defense counsel: Is there any are reason why we  
14 couldn't have a date in May at which we would set the final  
15 schedule leading up to the trial?

16 MS. KELLMAN: I think the answer to that, your  
17 Honor, is that having not had an opportunity to review the  
18 material that is in the SCIF yet, depending on what we find in  
19 there we don't know what if any additional actions are going  
20 to be required in terms of investigation and the like. So it  
21 is hard to give the court an intelligent answer until we have  
22 had a chance to see the materials that we can't talk about.

23 THE COURT: When did you get the government's  
24 production?

25 MS. KELLMAN: Tuesday at three.

1 THE COURT: Well, let's do this then: Why don't we  
2 target the date in May to be the date when we set the final  
3 schedule. That means that the defendant really has to make a  
4 good-faith effort to try to come up with a workable schedule  
5 that will get us to the trial date. If there are extenuating  
6 circumstances, I agree you can't know them now until you see  
7 the material. You might say we have to take 20 trips to Saudi  
8 Arabia and we can't do it by October. Something like that.  
9 We don't know what's going to come up. Let's try not to have  
10 something like that come up. Let's see if we can do it and  
11 have definite dates by which each thing has to happen and  
12 allow is to keep the current trial date. Any problem with  
13 that?

14 MR. ARIALL: I don't think -- conceptually, no, your  
15 Honor. My concern is that we kind of keep slipping and I'm  
16 just concerned that we need to make sure that we're really  
17 moving towards this October trial date. We are preparing  
18 ourselves to travel overseas on a number of trips to Italy, to  
19 Nigeria, to various other locations. We've got witnesses,  
20 like I said, all around the globe, and we really do need to  
21 have a fixed date and I appreciate that getting into the SCIF  
22 is sometimes complicated. The materials are not that  
23 voluminous, as your Honor is aware, and I think we just need  
24 to sort of put our nose down and go forward.

25 From our perspective, we're going to proceed with

1 filing various briefs and things that we think we can file.  
2 Today we're going to file a motion for an anonymous jury and  
3 we're just going to keep kind of moving forward with the goal  
4 of getting this all done by October, your Honor.

5 THE COURT: Yes. I think that's right. All I'm  
6 doing is I'm saying I can't lock the defendant into a position  
7 today because they just got the materials on Tuesday. But I  
8 wonder if we need to wait a whole month in order for the  
9 defendant to know what needs to be done between now and trial.

10 MR. STERN: Judge, I think what we would like to do  
11 is this: We are going to all meet today in the SCIF. We'll  
12 take the next few days to review the material, probably not  
13 the weekend. What we would like to do then is write you a  
14 letter ex parte telling you the things that we're going to  
15 make applications to you to do. We don't know yet what they  
16 are going to be. There may be a lot. There may not be a lot.  
17 So that you'll have an idea and the government won't have the  
18 same idea as you but will have some idea before the next date  
19 what we intend to do and how we intend to proceed.

20 THE COURT: Okay.

21 I think that's fine. I kind of like to meet on  
22 April 29 and to ask the defendant by that point to know what  
23 needs to be done. As the government points out, and you  
24 haven't appreciated this yet because you just got the  
25 materials, they are not all that voluminous and I think you'll

1 have to work hard in order to come up with a plausible  
2 schedule. But I think it's doable without making your lives  
3 miserable. So I think we ought to try for that.

4 MR. DRATEL: Your Honor, I will be out of town in an  
5 ABA conference that I attend on April 29.

6 THE COURT: Do I need all three of you here, if you  
7 have all a conferred before and agreed upon a schedule?

8 MR. DRATEL: We'll work it out, your Honor.

9 THE COURT: Okay. Why don't we say 2:15 on April  
10 29.

11 MR. ARIALL: That's a fine with the government, your  
12 Honor. And I would though, in terms of the ex-parte process,  
13 encourage defense counsel to come to us at the outset and with  
14 particular requests if they so have them, you know, to see  
15 whether we can accommodate whatever they want before we get to  
16 motion practice or anything like that.

17 THE COURT: I very much encourage the parties to  
18 talk about this and I think that needs to be done before I get  
19 the ex-parte description of where you are going.

20 MR. STERN: Assuming it doesn't reveal defense  
21 strategy, we'll be glad to do that.

22 THE COURT: There's some things you won't be able to  
23 say. There's some things you will.

24 I will exclude time based on case complexity until  
25 the 29 of April. Anything else we need to consider?

1 MS. KELLMAN: No, your Honor.

2 MR. ARIALL: I would also say, your Honor, as we  
3 intend to file motions today --

4 THE COURT: Keep them coming.

5 MR. ARIALL: That is another basis.

6 THE COURT: I'd rather have them now than a week  
7 before trial.

8 oooooo0oooooo

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25